IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 30695 of 2007(S)

OA.26/2007 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
.....

PETITIONERS:
----

1. **UNION PUBLIC SERVICE COMMISSION,**
   DHOLPUR HOUSE, SHAHJAHAN ROAD, NEW DELHI,
   REPRESENTED BY ITS SECRETARY.

2. **THE SELECTION COMMITTEE,**
   FOR SELECTION TO THE INDIAN FOREST SERVICE,
   CONSTITUTED UNDER THE REGULATION 3 OF THE IFS
   (APPOINTMENT BY PROMOTION REGULATION) 1996.

BY ADV. SRI.BECHU KURIAN THOMAS.

RESPONDENTS:
----

1. **A.K. SALIM, S/O. AHAMMED KANNU,**
   133, AKG NAGAR, PEROORKADA, THIRUVANANTHAPURAM.

2. **THE CHIEF SECRETARY,**
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. **THE SECRETARY TO GOVERNMENT OF INDIA,**
   MIN. OF ENVIRONMENT & FORESTS, NEW DELHI.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.S.G.
GOVT. PLEADER SRI. R. LEKSHMINARAYAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 30695 OF 2007-S

Dated 18th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The Union Public Service Commission and the Selection Committee for selection to the Indian Forest Service are the petitioners. We do not know why they have come before this Court, challenging an order of the Central Administrative Tribunal. The learned counsel for the petitioners submitted that the direction issued by the C.A.T can be implemented only by violating the relevant regulations governing the selection. Any way, we are not going into the question of locus standi of the petitioners. We propose to deal with the matter on merits.

2. The applicant before the Tribunal, the 1st respondent herein was a Deputy Conservator of Forests, aspiring for promotion to the Indian Forest Service. His turn arose for promotion in 2004. He was considered during the year 2004-05. But, he could not make it for want of sufficient number of vacancies. There was one vacancy during the year 2006. The intimation

regarding the same was received by the U.P.S.C from the competent authority in June, 2006 itself. As per the regulations, normally, a panel of candidates for promotion to that vacancy shall be drawn up in 2006 itself. But, in this case, promotions to the vacancies in respect of the previous years were considered and finalised only in December, 2006. The applicant felt that the case of candidates for promotion to the vacancies which arose in 2006 should also have been considered in the meeting held in 2006 and therefore, he moved the C.A.T., seeking appropriate reliefs. The C.A.T disposed of that O.A by Ext.P2 order dated 9.3.2007, directing the respondents concerned to convene the meeting before 31.5.2007, which is the date of retirement of the applicant. Though, the 1st petitioner U.P.S.C has taken all necessary steps to convene the meeting on 28.5.2007, the same could not be held because of the inconvenience of the Chief Secretary, Government of Kerala and also the nominee of the State Government in the Selection Committee. So, the meeting was adjourned to 30.5.2007. On the said date also, the meeting could not be held, owing to the inconvenience of the officials of the State Government. In view of the said position, the applicant moved a contempt application against the respondents concerned before the C.A.T. The same was closed by Ext.P6 order, noticing that the respondents therein have taken all possible steps for holding the meeting.

Later, the applicant filed M.A.No.649/2007 in O.A.No.26/2007, seeking reliefs in the background of non-convening of the meeting of the Selection Committee in time. The said M.A was heard and disposed of by Ext.P7 order dated 11.7.2007. When the said M.A was heard, the petitioners herein pointed out that two more vacancies in the cadre of I.F.S for the year 2006 have already been released as per the communication from the Central Government dated 10.8.2007. Earlier, by communication dated 25.5.2007, the U.P.S.C was informed that the vacancies for the year 2006 are likely to be changed. Now, the petitioners point out that in view of the release of two more vacancies, the total number of vacancies has gone up to three and therefore, the field of choice will be 9. So, if selection is held only for one vacancy reported earlier, the same will run counter to the relevant regulations. It will also prejudice the officers who are in the field of choice and having rank Nos.7, 8 and 9 as per the seniority list. In view of the above position, the U.P.S.C and the Selection Committee seek to quash Ext.P7 order. Seeking the said relief, this writ petition is filed.

3. We notice that the selection for the vacancies which arose in 2006 should have been, normally, held in 2006 itself. For the delay from the part of the State Government, it appears, the matter was delayed. Finally, the Tribunal gave a peremptory direction to convene the meeting before

31.5.2007. The meeting did not take place before the said date, as noticed earlier, because of the lapses from the part of the State Government. In view of the release of two more vacancies, of course, the juniors in the rank-list will also get a chance to be considered for selection. But, in that process, the 1st respondent is prejudiced. Going by the regulations, the rank-list has to be prepared by putting candidates having "outstanding" rating at the top, next with "very good" rating and lastly with "good" rating. The inter se seniority among each group will be according to the seniority in the feeder category. As the U.P.S.C has to wait for getting necessary reports regarding the nine candidates from the Government for holding selection to all the three vacancies, the same will cause serious injustice to the 1st respondent. His promotion will be further delayed and in view of additional number of candidates, there is likelihood of others stealing a march over him. In view of the above position, we feel that the prayer of the petitioners cannot be allowed. The U.P.S.C has been asked to do something which it should have done in 2006 itself. Subsequent developments cannot affect his rights. We find no difficulty for the U.P.S.C to obey the direction of the

C.A.T., issued in Ext.P7 order. Accordingly, the writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RA,MACHANDRAN NAIR,JUDGE.

Nm/